

**Senate File 2353 - Introduced**

SENATE FILE 2353  
BY COMMITTEE ON STATE  
GOVERNMENT

(SUCCESSOR TO SSB 3004)

**A BILL FOR**

1 An Act relating to the provision of services through Iowa  
2 communications network connection facilities under specified  
3 circumstances.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 8D.13, subsection 5, Code 2009, is  
2 amended to read as follows:

3 5. a. (1) The state shall lease all fiberoptic cable  
4 facilities or facilities with ~~DS-3~~ sufficient capacity as  
5 determined by the commission for Part III connections, for  
6 ~~which state funding is provided. The state shall lease~~  
7 ~~all fiberoptic cable facilities or facilities with DS-3 or~~  
8 ~~DS-1 capacity for the judicial branch, judicial district~~  
9 ~~department departments of correctional services, and state~~  
10 agency connections for which state funding is provided. In  
11 determining the capacity to be provided, the commission  
12 shall consult with the authorized users associated with  
13 the Part III connections, the judicial branch, the judicial  
14 district departments of correctional services, and state  
15 agencies associated with connections for which state funding  
16 is provided. Such facilities shall be leased from qualified  
17 providers. The state shall not own such facilities, except for  
18 those facilities owned by the state as of January 1, 1994.

19 (2) The lease provisions of this subsection do not apply to  
20 a school district which elects to provide one hundred percent  
21 of the financing for the district's connection.

22 b. (1) Notwithstanding paragraph "a", the state may provide  
23 fiberoptic cable facilities or other facilities with sufficient  
24 capacity as determined under paragraph "a" in a manner other  
25 than pursuant to a lease as provided in this paragraph "b".

26 (2) (a) The commission shall appoint a committee to review  
27 all instances where the state is considering or is requested to  
28 consider providing a connection in a manner other than pursuant  
29 to a lease, and to make a determination regarding whether such  
30 provision is warranted.

31 (b) The committee shall review all instances involving any  
32 of the following:

33 (i) An incumbent provider with an existing leased  
34 connection terminates ownership of the leased connection.

35 (ii) An incumbent provider with an existing leased

1 connection ceases to provide the necessary level of maintenance  
2 service associated with the leased connection as stated in the  
3 service level agreement.

4 (iii) An authorized user who is responsible for the  
5 connection's payment requests that the commission review the  
6 manner in which network services are provided to the authorized  
7 user as a result of the cost or capacity of the connections  
8 associated with the authorized user. A request pursuant to  
9 this subparagraph subdivision shall only be considered by the  
10 commission upon the expiration of an existing lease term, after  
11 the completion of the bid process associated with providing the  
12 lease connection during which no more than one compliant bid  
13 from a responsible bidder is received, and prior to a contract  
14 being awarded pursuant to the bid process.

15 (c) This subparagraph (2) shall not be construed to  
16 authorize the commission or the committee to affect the terms  
17 of an existing lease.

18 (d) The committee shall be composed of a commission  
19 designee, two persons representing telecommunications  
20 providers who provide Part III connections, one person who is a  
21 franchised cable operator, one person representing libraries,  
22 and one person representing the department of education.  
23 Additionally, a representative from the Iowa hospital  
24 association shall be appointed to the committee and shall  
25 participate if the affected connection is associated with a  
26 participant in the association's telemedicine network. Members  
27 of the committee shall be appointed annually by the commission  
28 from persons recommended to the commission for representation  
29 on the committee.

30 (e) Prior to approving a change regarding provision of  
31 capacity in a manner other than pursuant to a lease, the  
32 committee shall determine that it is in the long-term best  
33 interest of the authorized user to provide an existing or  
34 otherwise authorized network connection in a manner other  
35 than pursuant to a lease. In making this determination, the

1 committee, at a minimum, shall consider the cost to taxpayers  
2 and the ability of the network to provide a level of service  
3 necessary to meet the demands of network users.

4 (f) The committee shall notify the commission and any  
5 affected authorized user of a determination regarding the  
6 manner in which a connection shall be provided pursuant to  
7 this subsection within thirty days of receiving a request  
8 for consideration pursuant to this subparagraph (2), and in  
9 so doing shall consult with any affected authorized user or  
10 users and the affected provider of the Part III connection.  
11 A decision to proceed with implementation of the committee's  
12 decision shall be at the discretion of the authorized user.

13 (g) The commission shall not provide a connection under this  
14 subsection in a manner other than pursuant to a lease without  
15 the approval of the committee. However, a determination by the  
16 committee that the state shall construct a Part III connection  
17 or purchase an existing Part III connection shall be subject to  
18 the approval of the commission.

19 (3) The commission, in consultation with the committee,  
20 shall by rule establish procedures and criteria for proceeding  
21 as permitted under this paragraph "b". The commission shall  
22 provide staff support for the committee.

23 c. The commission shall include network connection changes  
24 made pursuant to this subsection in the commission's annual  
25 report related to the network.

26 EXPLANATION

27 This bill relates to the provision of services over  
28 presently leased Iowa communication network connection  
29 facilities. Currently, the state is required to lease all  
30 connections that apply to part III connections, the judicial  
31 branch, the judicial district departments of correctional  
32 services, and state agencies that are paid for with state  
33 funding from qualified providers and is prohibited from owning  
34 such connections except for facilities owned by the state as  
35 of January 1, 1994. The bill authorizes the state to provide

1 fiberoptic cable facilities or other facilities with sufficient  
2 capacity as determined by the Iowa telecommunications and  
3 technology commission, in consultation with authorized  
4 users, in a manner other than through a lease under specified  
5 circumstances.

6 The bill provides that facilities with sufficient capacity  
7 may be provided in a manner other than pursuant to a lease  
8 when determined warranted by a committee appointed by the Iowa  
9 telecommunications and technology commission. The committee  
10 is directed to review all instances involving an incumbent  
11 provider with an existing leased connection terminating  
12 ownership of the connection or ceasing to provide the necessary  
13 level of maintenance service associated with the connection.  
14 The bill provides that the committee shall also review, under  
15 specified circumstances, instances when an authorized user  
16 who is responsible for the connection's payment requests that  
17 the commission review the manner in which network services  
18 are provided to them as a result of the cost or capacity of  
19 their connections. The bill states that this review shall not  
20 be construed to authorize the commission or the committee to  
21 affect the terms of an existing lease.

22 The bill specifies membership in the committee, and provides  
23 that prior to approving a change regarding providing capacity  
24 in a manner other than pursuant to a lease, the committee shall  
25 determine that doing so is in the authorized user's long-term  
26 best interest.

27 The bill states that the committee shall notify the  
28 commission and an authorized user of its determination within  
29 30 days of receiving a request for review, and that a decision  
30 to proceed with implementation of the committee's decision  
31 shall be at the discretion of the authorized user. The bill  
32 prohibits the commission from providing a connection in a  
33 manner other than pursuant to a lease without the approval of  
34 the committee, but adds that a determination by the committee  
35 that the state shall construct a part III connection or

1 purchase an existing part III connection shall be subject to  
2 commission approval.

3 The bill directs the commission, in consultation with the  
4 committee, to adopt rules establishing procedures to implement  
5 the bill's provisions, and directs the commission to include  
6 network connection changes pursuant to the bill's provisions in  
7 its annual report related to the network.